

# C O U N C I L   C O M M U N I C A T I O N

TO: THE CITY COUNCIL  
FROM: THE CITY MANAGER'S OFFICE

COUNCIL MEETING DATE:  
AUGUST 1, 1990

SUBJECT: REFERENDUM AGAINST ADOPTED ORDINANCE NO. 1488 ENTITLED, "AN ORDINANCE OF THE LODI CITY COUNCIL REGULATING OR PROHIBITING SMOKING IN CERTAIN PUBLIC PLACES AND IN PLACES OF EMPLOYMENT"

On June 6, 1990 the Lodi City Council adopted Ordinance No. 1488 entitled, "An Ordinance of the Lodi City Council Regulating or Prohibiting Smoking in Certain Public Places and in Places of Employment" (Exhibit A attached).

On July 5, 1990 the City Clerk received a petition entitled, "Referendum Against an Ordinance Passed by the Lodi City Council - Petition Protesting Adoption of City Ordinance No. 1488" bearing 5,051 signatures.

Attached, marked Exhibit B, is a certificate from Larry O. Tunison, Acting Registrar of Voters which certifies the following:

Number of signatures filed	5,051
Number of signatures verified	3,162
Number of signatures found sufficient	2,511
Number of signatures found not sufficient	651

Based upon the sample, 2,511 signatures are valid, which is 10.6% of the registered voter count.

Section 4055 of the State of California Elections Code entitled, "Ordinance submitted to voters" sets forth the following:

If the legislative body does not entirely repeal the ordinance against which the petition is filed, the legislative body shall submit the ordinance to the voters either at the next regular municipal election occurring not less than 88 days after the order of the legislative body or at a special election called for the purpose not less than 88 days after the order of the legislative body. The ordinance shall not become effective until a majority of the voters voting on the ordinance vote in favor of it. If the legislative body repeals the ordinance or submits the ordinance to the voters and a majority of the voters voting on the ordinance do not vote in favor of it, the ordinance shall not again be enacted by the legislative body for a period of one year after the date of its repeal by the legislative body or disapproval by the voters.

Pursuant to the State Statute, the City Council shall either:

1. Adopt an ordinance repealing in its entirety Ordinance No. 1458 entitled, "An Ordinance of the Lodi City Council Regulating or Prohibiting Smoking in Certain Public Places and in Places of Employment" (sample ordinance repealing Ordinance No. 1488 is attached marked Exhibit C).

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2. Adopt a resolution submitting the Ordinance to the voters at the November 6, 1990 General Municipal Election (sample resolution attached marked Exhibit D).

If the City Council elects to submit the ordinance to the voters, it will be necessary to request the Board of Supervisors of the County of San Joaquin to consolidate a Special Municipal Election to be held on November 6, 1990 with the Statewide General Election to be held on that date pursuant to Section 23302 of the Elections Code for the purpose of the election of three members of the City Council and submitting the subject Ordinance to the voters (sample resolution attached marked Exhibit E).

Sections 4015.1 and 5014.5 of the Elections Code of the State of California authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments for City measures submitted at municipal elections. These provisions must be adopted at the same meeting at which the resolution calling the election is adopted (sample resolution attached and marked Exhibit F).

  
Alice M. Reimche  
City Clerk

AMR/jmp

Attachments

ORDINANCE NO. 1488

AN ORDINANCE OF THE LODI CITY COUNCIL  
REGULATING OR PROHIBITING SMOKING IN CERTAIN PUBLIC PLACES  
AND IN PLACES OF EMPLOYMENT

=====

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1 Lodi Municipal Code Title 8 - Health and Safety - is hereby amended by adding a new Chapter 8.16 regarding the regulation of smoking, as follows: .

- SEC. 8.16.010 Title.
- SEC. 8.16.020 Findings and Purpose
- SEC. 8.16.030 Definitions
- SEC. 8.16.040 Prohibition of Smoking in Public Places
- SEC. 8.16.050 Regulation of Smoking in Places of Employment
- SEC. 8.16.060 Where Smoking Not Regulated
- SEC. 8.16.070 Posting of Signs
- SEC. 8.16.080 Enforcement
- SEC. 8.16.090 Violations and Penalties
- SEC. 8.16.100 Non-retaliation
- SEC. 8.16.110 Governmental Agency Cooperation
- SEC. 8.16.120 Other Applicable Laws
- SEC. 8.16.130 Severability
- SEC. 8.16.140 Effective Date

See. 8.16.010 TITLE.

This chapter shall be known as the Smoking Pollution Control Ordinance.

Sec. 8.16.020 FINDINGS AND PURPOSE.

The Lodi City Council hereby finds that:

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution; and

Reliable studies have shown that breathing second-hand smoke is a significant health hazard for certain population groups, including elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and

Health hazards induced by breathing second-hand smoke include lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function, bronchoconstriction, and bronchospasm; and

Nonsmokers with allergies, respiratory diseases and those who suffer other ill effects of breathing second-hand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions to same; and

Numerous studies have shown that a majority of both nonsmokers and smokers desire to have restrictions on smoking on public places and places of employment.

Smoking is a documented cause of fires; and cigarette and cigar burns and ash stains on merchandise and fixtures cause economic losses to businesses.

Accordingly, the City Council finds and declares that the purposes of this ordinance are 1) to protect the public health and welfare by prohibiting smoking in specified public places by **regulating** smoking in places of employment; and 2) to strike a reasonable balance between the **needs** of smokers and the need of nonsmokers to breathe smoke-free air, and to recognize that, where these needs conflict, the need to breathe smoke-free air shall have priority.

Sec. 8.16.030 DEFINITIONS.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

1. "Bar" means an area which is devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.
2. "Business" means any **sole** proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering., architectural, or other professional services are delivered.

3. "Dining Area" means any enclosed area containing a counter or tables upon which meals are served.
4. "Employee" means any person **who** is employed **by** any employer in consideration for direct or indirect monetary **wages** or profit, and any person who **volunteers** his or her services for a nonprofit entity .
5. "Employer" means any person, **partnership**, corporation, or nonprofit entity, including a municipal corporation, who employs the services **of** one or more persons.
6. "Enclosed" means closed in by roof and four walls. with appropriate openings for ingress and egress.
7. "Nonprofit Entity" means any corporation, unincorporated association, or other entity created for charitable, educational, political , social, or other similar purposes, the net proceeds from the operations of which are committed to the promotion of the objects or purposes of the organization and not to private financial gain. A public agency is not a "nonprofit entity" within the meaning of this section.
8. "Place of Employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including but not limited to, work areas, employee lounges, and

restrooms, conference and class rooms, cafeterias and hallways. Except:

- a. A private residence is not a place of employment, unless it is used as a child care or a health care facility.

9. "Public Place" means any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to: banks, educational facilities, health facilities, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters, and waiting rooms.
10. "Restaurant" means any coffee shop, cafeteria, tavern, sandwich stand, soda fountain, private or public school cafeteria, and any other eating establishment, organization, club, boardinghouse, or guesthouse, which gives or offers food for sale to the public, guests, patrons, or employees, except that the term "restaurant" shall not include a cocktail lounge or tavern if said cocktail lounge or tavern is a "bar" as defined in Section 8.16.030 (1).

11. "Retail Tobacco Store" means a retail store utilized primarily for the sale of tobacco products and accessories.
12. "Service Line" means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service includes the exchange of money.
13. "Smoking" means inhaling, exhaling, burning, or carrying any lighted pipe, cigar, or cigarette of any kind.
14. "Sports Arena" means sports pavilions, gymnasium, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the public assemble to engage in physical exercise, participate in athletic competition, or witness sports events.

Sec. 8.16.040 PROHIEITION OF SMOKING IN PUBLIC PLACES.

- A. Smoking shall be prohibited in all enclosed public places within the City, including, but not limited to the following places:
  1. Elevators and restrooms.
  2. Buses, taxicabs and other means of public transit under the authority of the City, and in ticket, boarding, and waiting areas of public transit depots.
  3. Service lines.



4. Retail **stores**, except areas in said stores not open to **the** public and all areas within retail tobacco stores.
5. Retail food **marketing** establishments, including grocery stores and supermarkets, except those areas not open to the public, whtch may be otherwise regulated by this chapter.
6. **All** areas available to and customarily used by the general public in all businesses and nonprofit entities patronized by the public, including, but not limited to, business offices, banks, hotels and motels.
7. Restaurants.
8. Any building not open to the **sky** which is used primarily as a museum or for exhibiting any motion picture, stage drama, lecture, musical recita? **or** other similar performance, except when smoking is part of any such production.
9. Enclosed sports arenas and convention halls.
10. Every **room**, chamber, and place of meeting or public assembly, including school buildings under the control of any board, council, **commission**, committee, or agencies of the City or any political subdivision of the State during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the City.

11. Doctors' offices, dentists' offices, waiting rooms, hallways, wards, and semi-private **rooms of** health facilities, including, but not limited to, hospitals, clinics, and physical therapy facilities. In bed space areas of health facilities used for two or more patients, smoking shall be prohibited unless all patients within the **room** are smokers and request in writing upon the health care facility's admission forms to be placed in a room where smoking is permitted.

12. **Folling Places.**

B. Notwithstanding any other provision **of** this section, any owner, operator, manager or other person who controls any establishment described in this section ~~may~~ declare that entire establishment as a *nonsmoking* establishment. Further, provided that notwithstanding this chapter, the owner or person **who** controls such establishment may, but is not required to set aside in any facility described in this section, a separate **room** with **walls** and doors reasonably impermeable to tobacco smoke for use **as** an employee ounge or break room.

4

Sec. 8.16.050 REGULATION OF SMOKING IN PLACES OF EMPLOYMENT.

A. It shall be the responsibility of employers to provide smoke-free areas for nonsmoking employees within existing facilities to the maximum extent possible, but employers are not required to incur any expense to make structural or other physical modifications in providing these areas.

6. Within 60 days of the effective date of this chapter, each employer and each place of employment located within the City shall adopt, implement, make known and maintain a written smoking policy, which shall contain at a minimum the following requirements:

1. Any employee in a place of employment shall have the right to designate his or her work area as a nonsmoking area and to post the same with an appropriate sign or signs, to be provided by the employer.
2. Prohibition of smoking in auditoriums, classrooms, conference and meeting rooms, elevators, hallways, medical facilities, and restrooms.
3. Provision and maintenance of separate and contiguous nonsmoking areas of not less than fifty percent of the seating capacity and floor space in cafeterias, lunchrooms and employee lounges or provision and maintenance of separate and equal-sized cafeterias, lunchrooms and employee lounges for smokers and nonsmokers.

4. In any dispute arising under this smoking policy, the health concerns of the nonsmoker shall be given precedence.
- C. The smoking policy shall be communicated to all employees within three weeks of its adoption.
- D. All employers shall supply a written copy of the smoking policy to any prospective employee.
- E. Notwithstanding any other provisions of this section, every employer shall have the right to designate any place of employment, or any portion thereof, as a nonsmoking area.

Sec. 8.16.060 WHERE SMOKING NOT REGULATED.

- A. Notwithstanding any other provisions of this Ordinance to the contrary, the following areas shall not be subject to the smoking restrictions of this chapter:
  1. Bars.
  2. Private residences, except when used as a child care or a health care facility.
  3. Hotel and motel rooms rented to guests.
  4. Retail tobacco stores.

5. Restaurant, hotel and motel conference or meeting rooms, and public and private assembly rooms while these places are being used for private functions.
  6. A private enclosed place occupied exclusively by smokers, even though such a place may be visited by nonsmokers.
- B. Notwithstanding any other provision of this section, any owner, operator, manager, or other person who controls any establishment described in this section may declare that entire establishment, or any portion thereof, as a nonsmoking establishment.

Sec. 8.16.070 POSTING OF SIGNS.

- A. "Smoking" or "No Smoking" signs, whichever are appropriate, with letters of not less than 1" in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every building or other place where smoking is controlled by this chapter, by the owner, operator, manager or other person having control of such building or other place.
- B. Every theater owner, manager or operator shall conspicuously post signs in the lobby stating that smoking is prohibited within the

theater or auditorium, and in the case of motion picture theaters, such information shall be shown upon the screen for at least five seconds prior to the showing of each feature motion picture.

**Sec. 8.16.080 ENFORCEMENT.**

- A. Enforcement shall be implemented by the Fire Marshal,
- B. Any citizen who desires to register a complaint hereunder may initiate enforcement with the Fire Marshal.
- C. Any owner, manager, operator or employer of any establishment controlled by this chapter shall have the right to inform persons violating this chapter of the appropriate provisions thereof.
- D. Notwithstanding any other provisions of this chapter, a private citizen may bring legal action to enforce this chapter,

**Sec. 8.16.090 VIOLATIONS AND PENALTIES.**

- A. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to the regulation under this chapter to fail to comply with its provisions.

B. It shall be unlawful for any person to **smoke** in any area restricted by the provisions of this chapter.

C. Any person who violates any provision of this chapter shall be guilty of an infraction, punishable by:

1. A fine, not exceeding \$100, for first violation;
2. A fine, not exceeding \$200, for a second violation of this chapter within 1 year;
3. A fine, not exceeding \$500, for each additional violation of this chapter within 1 year;

**Sec. 8.16.100 NON-RETALIATION.**

No person or employer shall discharge, refuse to hire, or in any manner, **retaliate** against any employee or applicant for employment because such employee or applicant exercises any rights afforded by this chapter.

**Sec. 8.16.110 GOVERNMENTAL AGENCY COOPERATION.**

The City Manager shall annually request other governmental and educational agencies having facilities within the City to establish local operating procedures in cooperation and compliance with this chapter. The City Manager shall urge Federal, State, County and special school district agencies to enforce their existing smoking

control regulations and to comply voluntarily with this chapter.

Sec. 8.16.120 OTHER APPLICABLE LAWS.

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

Sec. 8.16.130 SEVERABILITY.

If any provision or clause of this Ordinance or the application thereof to any person or circumstances held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other Ordinance provisions or clauses or applications thereof which can be implemented without the invalid provision or clause or application, and to this end the provisions and clauses of this Ordinance are declared to be severable.

Sec. 8.16.140 EFFECTIVE DATE.

This chaoter shall be in force and take effect thirty (30) days from and after its passage and approval.

SECTION 2. All ordinances and parts of ordinances in conflict herewith sre repealed insofar as such conflict may exist.



SECTION 3. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi.

Approved this 6th day of June 1990

*John R. Snider*

JOHN R. SNIDER  
Mayor of the City of Lodi

Attest:

*Alice M. Reimche*

ALICE M. REIMCHE  
City Clerk of the City of Lodi

State of California  
County of San Joaquin, sq.

I, Alice M. Reimche, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1488 was introduced at a regular meeting of the City Council of the City of Lodi held May 16, 1990 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held June 6, 1990 by the following vote:

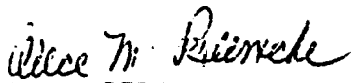
Ayes: Council Members - Hinchman, Olson, Reid, and Snider (Mayor)

Noes: Council Members - Pinkerton

Absent: Council Members - None

Abstain: Council Members - None

I further certify that Ordinance No. 1488 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

  
ALICE M. REIMCHE  
City Clerk of the City of Lodi

Approved as to Form



BOBBY W. McNATT  
City Attorney of the City of Lodi

ORD1488/TXTA.01V



**SAN JOAQUIN COUNTY  
REGISTRAR OF VOTERS**

24 SOUTH HUNTER STREET, ROOM 202  
P.O. BOX 810  
STOCKTON, CALIFORNIA 95201  
(209) 468-2885

EXHIBIT B

**GEORGE H. CUNNINGHAM**  
REGISTRAR OF VOTERS

**LARRY O. TUNISON**  
ASST. REGISTRAR

JULY 23, 1990

**Mrs. Alice Reimche**  
City Clerk  
city of Lodi  
221 W Pine Street  
Lodi, CA 95240

RE: Certification of Signatures of the City of Lodi  
Referendum Against Passed Ordinance No. 1488  
Petition.

Dear Mrs. Reimche:

Pursuant to your request this office has undertaken the  
verification of the signatures on the City of Lodi Referendum  
Against Passed Ordinance No. 1488 petition filed in your office.

I hereby certify that the above named petition consists of  
the following:

Number of signatures filed	5,051	
Number of signatures verified	3,162	62.6%
Number of signatures found sufficient	2,511	79.4%
Number of signatures found not sufficient	651	20.6%

Based upon the sample, 2,511 signatures are valid, which is 10.6  
percent of the registered voter count.

Please contact Debby Sellers of my staff at (209)468-2885 if  
you have any questions.

Very truly yours,

Larry O. Tunison  
Acting Registrar of Voters

LOT:ds

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE LODI CITY COUNCIL  
REPEALING LODI MUNICIPAL CODE CHAPTER 8.16 (ORDINANCE NO. 1488)  
IN ITS ENTIRETY

=====

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1.

WHEREAS, a Referendum Petition, having been certified under **Elections** Code Section **4054** as containing sufficient signatures of **qualified** registered voters of the City of Lodi to require action on Ordinance **1488** by the Lodi City Council, has been received;

NOW, THEREFORE, BE IT ORDAINED that Lodi Municipal Code Chapter **8.16** (Ordinance No. **1488**) entitled "AN ORDINANCE OF THE LODI CITY COUNCIL REGULATING OR PROHIBITING SMOKING IN CERTAIN PUBLIC PLACES AND IN PLACES OF EMPLOYMENT" is hereby repealed in its entirety.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this            day of

**JOHN R. SNIDER**  
Mayor

Attest:

**ALICE M. REIMCHE**  
City Clerk

=====

State of California  
County of San Joaquin, ss.

I, Alice M **Reimche**, City Clerk of the City of Lodi, do hereby certify that Ordinance No. \_\_\_\_\_ was introduced at a regular meeting of the City Council of the **City of** Lodi held \_\_\_\_\_, 1990 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held \_\_\_\_\_, 1990 by the following vote:

Ayes :	Council Members -
Noes :	Council Members -
Absent:	Council Members -
Abstain :	Council Members -

I further certify that Ordinance No. \_\_\_\_\_ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

**ALICE M. REIMCHE**  
City Clerk

Approved as to Form

**BOBBY W. McNATT**  
City Attorney

ORDSMK1/TXTA.01V

RESOLUTION NO. 90-123

A RESOLUTION OF THE LODI CITY COUNCIL  
CALLING FOR A SPECIAL MUNICIPAL ELECTION  
TO BE HELD ON TUESDAY, NOVEMBER 6, 1990

WHEREAS, a petition has been received by the City Council of the City of Lodi requesting said Council to reconsider the adoption of Ordinance No. 1488 entitled "AN ORDINANCE OF THE LODI CITY COUNCIL REGULATING OR PROHIBITING SMOKING IN CERTAIN PUBLIC PLACES AND IN PLACES OF EMPLOYMENT"; and

WHEREAS, said petition has been certified by the City Clerk of the City of Lodi as containing sufficient signatures of qualified registered voters of the City of Lodi to require action on said ordinance by the City Council; and

WHEREAS, in accordance with the provisions of Section 4055 of the Elections Code of the State of California, the City Council shall either repeal Ordinance 1488 or hold an election thereon; and

WHEREAS, the City Council has moved to sustain its action in adopting Ordinance No. 1488;

NOW, THEREFORE, BE IT RESOLVED, that a special election shall be held on Tuesday, November 6, 1990 to vote upon the question of:

Shall Ordinance 1488 of the City of Lodi entitled, "AN ORDINANCE OF THE LODI CITY COUNCIL REGULATING OR PROHIBITING SMOKING IN CERTAIN PUBLIC PLACES AND IN PLACES OF EMPLOYMENT" be adopted?

Dated: August 1, 1990

I hereby certify that Resolution No. 90-123 was passed and adopted by the Lodi City Council in a regular meeting held August 1, 1990 by the following vote:

Ayes : Council Members - Hinchman, Olson, Reid and Snider  
(Mayor)

Noes : Council Members - Pinkerton

Absent: Council Members - None

*Alice M. Reimche*  
Alice M. Reimche  
City Clerk

RESOLUTION NO. 90-124

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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN JOAQUIN TO CONSOLIDATE A SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 6, 1990, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE DATE PURSUANT TO SECTION 23302 OF THE ELECTIONS CODE.

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WHEREAS, the City Council of the City of Lodi called a Special Municipal Election to be held on November 6, 1990 for the purpose of the election of three Members of the City Council; and

WHEREAS, the City Council is submitting to the voters the questions relating to a smoking ordinance; and

WHEREAS, it is desirable that the Special Municipal Election be consolidated with the Statewide General Election be consolidated with the Statewide General Election to be held on the same date and that within the City, the precincts, polling places and election officers of the two Elections be the same, and that the County Election Department of the County of San Joaquin canvass the returns of the Special Municipal Election and that the election be held in all respects as if there were only one election;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LODI DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of Section 23302 of the Elections Code, the Board of Supervisors of the County of San Joaquin is hereby requested to consent and agree to the consolidation of a Special Municipal Election with the Statewide General Election on Tuesday, November 6, 1990, for the purpose of the election of three Members of the City Council.

SECTION 2. That a measure is to appear on the ballot as follows:

SHALL ORDINANCE 1488 OF THE CITY OF LODI ENTITLED, "AN ORDINANCE OF THE LODI CITY COUNCIL REGULATING OR PROHIBITING SMOKING IN CERTAIN PUBLIC PLACES AND IN PLACES OF EMPLOYMENT" BE ADOPTED?	YES	
	NO	

**SECTION 3.** That the County Election Department is **authorized** to canvass the returns of the Special Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

**SECTION 4.** That the Board of Supervisors is requested to issue instructions to the County Election Department to take any and **all** steps necessary for the holding of the consolidated election,

**SECTION 5.** That the City of Lodi recognizes that additional costs ~~will~~ be incurred by the County by reason of this consolidation and **agrees to reimburse** the County for any costs.

**SECTION 6.** That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election Department of the County of San Joaquin.

**SECTION 7.** That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

Dated: August 1, 1990

=====

I hereby certify that Resolution No. 90-124 was passed and adopted by the Lodi City Council in a **regular** meeting held August 1, 1990 by the following vote:

Ayes: Council Members - Hinchman, Olson, Pinkerton, Reid and Snider (Mayor)

Noes: Council Members - None

Absent: Council Members - None

  
Alice M. Reimche  
City Clerk

90-124

RES90124/TXTA.02J



RESOLUTION NO. 90-125

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI,  
CALIFORNIA PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS  
FOR CITY MEASURES SUBMITTED AT MUNICIPAL ELECTIONS

WHEREAS, Section 4015.5 and 5014.5 of the Elections Code of the State of California authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments for city measures submitted at municipal elections;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LODI, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1, That pursuant to Sections 4015.5 and 5014.5 of the Elections Code of the State of California, when the clerk has selected the arguments for and against the measure which will be printed and distributed to the voters, the clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the City Clerk not more than 10 days after the final date for filing direct arguments. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

SECTION 2. That all previous resolutions providing for the filing of rebuttal arguments for city measures are repealed.

SECTION 3, That the provisions of Section 1 shall apply only to the election to be held on November 6, 1990, and shall then be repealed.

SECTION 4. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.


Dated: August 1, 1990

I hereby certify that Resolution No. 90-125 was passed and adopted by the Lodi City Council in a regular meeting held August 1, 1990 by the following vote:

Ayes: Council Members - Hinchman, Olson, Pinkerton, Reid and Snider (Mayor)

Noes: Council Members - None

Absent: Council Members - None

  
Alice M. Reimche  
City Clerk

90-125

RES90125/TXTA.02J

DECLARATION OF POSTING

On August 2, 1990 in the City of Lodi, San Joaquin County, California, I posted on the following public bulletin boards a copy of "Notice to Voters of Date After Which No Arguments For or Against a City Referendum Measure May be Submitted to the City Clerk" attached hereto, marked Exhibit A:

- a) City Hall  
Council Chambers Bulletin Board  
221 West Pine Street  
Lodi, CA 95240

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 2, 1990 at Lodi, California.

\_\_\_\_\_  
ALICE M. REINCHE  
City Clerk

  
\_\_\_\_\_  
JENNIFER M. PERRIN  
Deputy City Clerk

NOTICE TO VOTERS OF DATE AFTER WHICH NO ARGUMENTS  
FOR OR AGAINST A CITY REFERENDUM MEASURE  
MAY BE SUBMITTED TO THE CITY CLERK

NOTICE IS HEREBY **GIVEN** that a Special Municipal Election is to be **held in** the **City** of Lodi **on** November 6, 1990 at which there **will** be submitted to the voters the following referendum measure:

**SHALL** ORDINANCE 1488 OF THE CITY OF LODI ENTITLED,  
"AN ORDINANCE OF THE **LODI** CITY COUNCIL REGULATING OR  
**PROHIBITING SMOKING** IN CERTAIN PUBLIC PLACES AND IN  
PLACES OF EMPLOYMENT" BE ADOPTED?

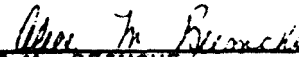
**NOTICE** IS FURTHER GIVEN that pursuant to Article 4, Chapter 3, Division 5 **of** the Elections **Code** of the State of California, the legislative body of the City, or any member or members thereof authorized by the body, or any individual voter or bona fide association of citizens, or any combination of voters and associations, **may** file a written argument, not to exceed 300 words in length, for or **against the City referendum measure.**

NOTICE IS FURTHER GIVEN that, based upon the time reasonably necessary to prepare and print the arguments and sample ballots for the election, the City Clerk **has** fixed August 14, 1990 as a reasonable date prior to the election after which no arguments for or against the City referendum measure **may** be submitted to the Clerk for printing and distribution to the voters as provided in Article 4. Arguments shall be **submitted** to the City Clerk at City **Hall**, 221 West Pine Street,

Lodi, California 95240. Arguments **may** be changed **or** withdrawn until and including the date fixed **by** the City Clerk.

**NOTICE IS FURTHER GIVEN** that the City Council has determined that rebuttal arguments, as submitted by the authors of the opposing direct arguments, may be filed with the Clerk not **more** than **10** days after the final date **for** filing direct arguments.

**NOTICE IS FURTHER GIVEN** that any ordinance, impartial analysis, or direct argument filed under the authority **of** the Elections Code will be available for public examination in the Clerk's office for not less than **10** calendar **days from** the deadline for filing arguments. Any rebuttal argument filed under the authority of the Elections Code will **be** available **for** public examination in the Clerk's office for not less than **10** calendar days **from** the deadline for filing rebuttal arguments.

  
\_\_\_\_\_  
ALICE M. REIMCHE  
City Clerk

Dated: August 1, 1990

DECLARATION OF MAILING

On August 2, 1990 in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a copy of the Notice attached hereto, marked Exhibit "A", said envelopes were addressed as is more particularly shown on Exhibit "B" attached hereto.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 2, 1990, at Lodi, California.

\_\_\_\_\_  
Alice M. Reimche  
City Clerk

  
\_\_\_\_\_  
Jennifer M. Perrin  
Deputy City Clerk

CITY COUNCIL

JOHN R. (Randy) SNIDER, Mayor  
DAVID M. HINCHMAN  
Mayor Pro Tempore  
EVELYN M. OLSON  
JAMES W. PINKERTON, Jr.  
FRED M. REID

CITY OF LODI

CITY HALL, 221 WEST PINE STREET  
CALL BOX 3006  
LODI, CALIFORNIA 95241-1910  
(209) 334-5634  
TELEFAX (209) 334-6705

THOMAS A. PETERSON  
City Manager  
ALICE M. REIMCHE  
City Clerk  
BOB McNATT  
City Attorney

August 2, 1990

San Joaquin County  
Registrar of Voters  
Attention: Larry Tunison  
P.O. Box 810  
Stockton, CA 95201

Dear Larry:

Please find attached the following resolutions which were adopted at the regular City Council meeting held on August 1, 1990:

Resolution No. 90-123 entitled, "A Resolution of the Lodi City Council Calling for a Special Municipal Election to Be Held on Tuesday, November 6, 1990";

Resolution No. 90-124 entitled, "A Resolution of the City Council of the City of Lodi, California, Requesting the Board of Supervisors of the County of San Joaquin to Consolidate a Special Municipal Election to Be Held on November 6, 1990, with the Statewide General Election to Be Held on the Date Pursuant to Section 23302 of the Elections Code";

Resolution No. 90-125 entitled, "A Resolution of the City Council of the City of Lodi, California Providing for the Filing of Rebuttal Arguments for City Measures Submitted at Municipal Elections".

If you have any questions, please give our office a call.

Very truly yours,

*Alice M. Reimche*  
Alice M. Reimche  
City Clerk

AMR/JMP

Enclosures

CIN COUNCIL

JOHN R (Randy) SNIDER, Mayor  
DAVID M HINCHMAN  
Mayor Pro Tempore  
EVELYN M OLSON  
JAMES W PINKLTON, Jr  
FREDM REID

CITY OF LODI

CITY HALL, 221 WEST PINE STREET  
CALL BOX 3006  
LODI, CALIFORNIA 95241-1910  
(209) 334-5634  
TELECOPIER (209) 334-6795

THOMAS A PETERSON  
City Manager  
ALICE M REIMCHE  
City Clerk  
BOB McNATT  
City Attorney

August 2, 1990

San Joaquin County  
Board of Supervisors  
Attention: Joretta Hyde  
Courthouse  
222 East Weber Avenue, Room 701  
Stockton, CA 35202

Dear Joretta:

Please find attached the following resolutions which were adopted at the regular City Council meeting held on August 1, 1990:

Resolution No. 90-123 entitled, "A Resolution of the Lodi City Council Calling for a Special Municipal Election to Be Held on Tuesday, November 6, 1990";

Resolution No. 90-124 entitled, "A Resolution of the City Council of the City of Lodi, California, Requesting the Board of Supervisors of the County of San Joaquin to Consolidate a Special Municipal Election to Be Held on November 6, 1990, with the Statewide General Election to Be Held on the Date Pursuant to Section 23302 of the Elections Code";

Resolution No. 90-125 entitled, "A Resolution of the City Council of the City of Lodi, California Providing for the Filing of Rebuttal Arguments for City Measures Submitted at Municipal Elections".

If you have any questions, please give our office a call.

Very truly yours,

*Alice M. Reimche*  
Alice M. Reimche  
City Clerk

AMR/JMP

inclosures

CITY COUNCIL

JOHN R. (Randy) SNIDER, Mayor  
DAVID M. HINCHMAN  
Mayor Pro Tempore  
EVELYN M. OLSON  
JAMES W. PINKERTON, Jr.  
FRED M. REID

# CITY OF LODI

CITY HALL, 221 WEST PINE STREET  
CALL BOX 3006  
LODI, CALIFORNIA 95241-1910  
(209) 334-5634  
TELECOPIER (209) 333-6795

THOMAS A. PETERSON  
City Manager  
ALICE M. REIMCHE  
City Clerk  
BOB McNATT  
City Attorney

August 2, 1990

Eileen St. Yves  
Treasurer  
Lodi Indoor Clean Air Coalition  
310 South Orange Street #60  
Lodi, CA 95240

Dear Eileen:

Please find enclosed for your information a copy of the "Notice to Voters of Date After Which No Arguments For or Against a City Referendum Measure May be Submitted to the City Clerk".

Also attached is a Form of Statement by Author of Argument. This format needs to be attached as a cover sheet if you wish to submit an argument to the City Clerk regarding the Referendum measure.

If you have any questions regarding this matter, please feel free to contact the City Clerk.

Very truly yours,

  
Jennifer M. Perrin  
Deputy City Clerk

JMP

Enclosure



**CITY COUNCIL**

**JOHN R. (Randy) SNIDER, Mayor**  
**DAVID M. HINCHMAN**  
**Mayor Pro Tempore**  
**EVELYN M. OLSON**  
**JAMES W. PINKERTON, Jr.**  
**FRED M. REID**

**CITY OF LODI**

**CITY HALL, 221 WEST PINE STREET**  
**CALL BOX 3006**  
**LODI CALIFORNIA 95241-1910**  
**(209) 334-5634**  
**TELECOPIEU: (209) 333-6795**

**THOMAS A. PETERSON**  
**City Manager**  
**ALICE M. REIMCHE**  
**City Clerk**  
**BOB McNATT**  
**City Attorney**

August 2, 1990

**Ms. Floy French-Landau**  
**Treasurer**  
**Taxpayers United for Freedom (T.U.F.F.)**  
**P.O. Box 2714**  
**Lodi, CA 95241**

**Dear Floy:**

Please find enclosed for your information a copy of the "Notice to Voters of Date After Which No Arguments For or Against a City Referendum Measure May be Submitted to the City Clerk".

Also attached is a **Form of Statement** by Author of Argument. This **format** needs to be attached as a cover sheet **if** you wish to submit an **argument** to the City Clerk regarding the Referendum measure.

If you have any questions regarding this matter, please feel free to contact the City Clerk.

Very truly yours,

*Jennifer M. Perrin*  
**Jennifer M. Perrin**  
**Deputy City Clerk**

**JMP**

**Enclosure**

**FORM OF STATEMENT TO BE FILED BY  
AUTHOR OF ARGUMENT**

All arguments concerning measures filed pursuant to Division 5, Chapter 3 (beginning with Section 4000) of the Elections Code shall be accompanied by the following form statement to be signed by each author of the argument:

The undersigned author(s) of the (primary/rebuttal) argument (in favor of/against) ballot proposition (name or number) at the (title of election) election for the (jurisdiction) to be held on \_\_\_\_\_, 1990 hereby state that the argument is true and correct to the best of (his/her/their) knowledge and belief.

Signed

Date

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anner as are county petitions in accordance with [unclear] except that, for the purposes of this section, references in those sections to the board of supervisors shall be treated as references to the legislative body of the city or city and county. The expenses of signature verification shall be provided by the governing body receiving the petition from the clerk.

(Added by Stats. 1981, c. 136, §11.)

#### 4093. Petitions not accepted

Petitions which do not substantially conform to the form requirements of this article shall not be accepted for filing by the clerk.

(Added by Stats. 1981, c. 136, §13.)

#### 4094. Conduct of election and publication requirements.

The conduct of election and publication requirements shall substantially conform with Division 14 (commencing with Section 22000)

(Added by Stats. 1988, c. 357, §7.)

#### 3095. Resolution upon completion of canvass.

Upon the completion of the canvass of votes, the governing body of a city or city and county shall pass a resolution reciting the fact of the election and such other matters as are enumerated in Section 22933. The clerk of the city or city and county shall then cause the adopted measures to be submitted to the Secretary of State pursuant to Sections 34459 and 34460 of the Government Code.

(Added by Stats. 1988, c. 357, §8.)

### Article 4. Arguments Concerning City Measures

#### 5010. "City measure" definition.

As used in this article, "city measure" includes any proposed city charter, any proposed amendment to a city charter, any proposition for the issuance of bonds by the city, any advisory question, or any other question or proposition submitted to the voters of a city.

(Amended by Stats. 1976, c. 916, §2)

#### 5011. City attorney to prepare impartial analysis.

Whenever any city measure qualifies for a place on the ballot, the governing body may direct the city clerk to transmit a copy of the measure to the city attorney, unless the organization or salaries of the office of the city attorney are affected. The city attorney shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. If the measure affects the organization or salaries of the office of the city attorney, the governing board may direct the city clerk to prepare the impartial analysis. The analysis shall be printed preceding the arguments for and against the measure. The analysis shall not exceed 500 words in length.

In the event the entire text of the measure is not printed on the ballot nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point bold type, a legend substantially as follows:

"The above statement is an impartial analysis of Ordinance or Measure [unclear]. If you desire a copy of the ordinance or measure, please call the elections official's office at (insert telephone number) and a copy will be mailed to you at no cost to you."

(Amended by Stats. 1988, c. 420, §3.)